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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,788	02/26/2004	Michel Grandjean	040215-000000US	6142
20350	7590	12/08/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			COOLEY, CHARLES E	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/788,788	Applicant(s) GRANDJEAN, MICHEL	
	Examiner Charles E. Cooley	Art Unit 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 1723

NON-FINAL OFFICE ACTION

1. This application has been assigned to Technology Center 1700, Art Unit 1723 and the following will apply for this application:

Please direct all written correspondence with the correct application serial number for this application to Art Unit 1723.

Telephone inquiries regarding this application should be directed to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197 or to the Examiner at (571) 272-1139. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

Drawings

2. The drawings are objected to under 37 CFR § 1.83(a) since the drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or the features canceled from the claims. No new matter should be entered.

- a. the subject matter of claim 6.
- b. the subject matter of claim 15.
- c. the subject matter of claim 17.
- d. the subject matter of claim 18.

3. The drawings are objected to because of the following informalities:

- a. the drawings are of poor line quality (37 CFR 1.84).

Art Unit: 1723

b. the drawings contain improper sectional views. The plane upon which a sectional view is taken should be indicated on the view from which the section is cut by a broken line. The ends of the broken line should be designated by Arabic or Roman numerals corresponding to the view number of the sectional view, and should have arrows to indicate the direction of sight (37 CFR 1.84(h)(3)). Correction is required.

For example, Figure 8 should be a sectional view taken along line 8-8 in Figure 7 (not sectional line A-A). All sectional views should be corrected in accordance with 37 CFR 1.84(h)(3).

Applicant should also ensure a proper one-to-one correspondence between the specification and drawings in accordance with MPEP 608.01(g) and 37 CFR 1.84(f). The brief description of the drawings and the descriptive portion of the specification require revision in accordance with the above drawing objections.

Correction is required.

4. Applicant should verify that (1) all reference characters in the drawings are described in the detailed description portion of the specification and (2) all reference characters mentioned in the specification are included in the appropriate drawing Figure(s) as required by 37 CFR 1.84(p)(5).

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" (37 CFR 1.121(d)) and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may

Art Unit: 1723

be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

Specification

5. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

6. The abstract is acceptable.

7. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed (MPEP 606.01).

Claim Objections

8. Claim 9 is objected to because it lacks proper ending punctuation (a comma).

Appropriate correction is required.

Claim Rejections - 35 U.S.C. § 112, second paragraph

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 16 and 17, line 2: "the transmission tube" lacks antecedent basis.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

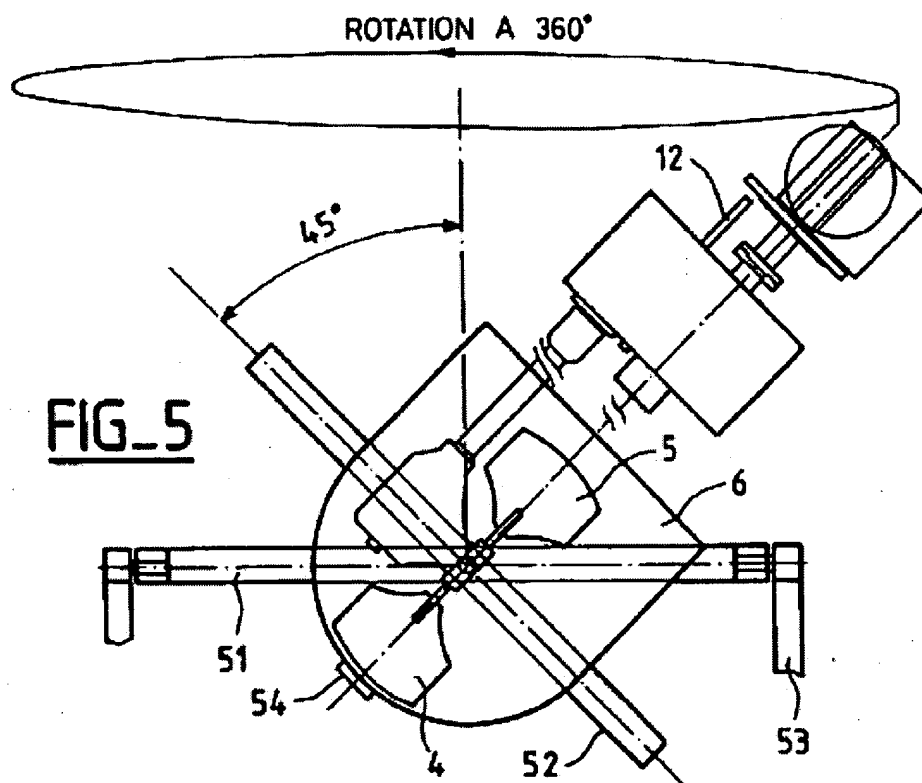
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-10, 12, 19, and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by EP 1050335 A1.

Art Unit: 1723

EP 1050335 A1 clearly discloses the recited mixer in Figs. 5 and 6 below and note the attached abstract describing the claimed subject matter. Fig. 5 immediately below shows the subject matter of claim 20 (the cradle arrangement).



EP 1 050 335 A1

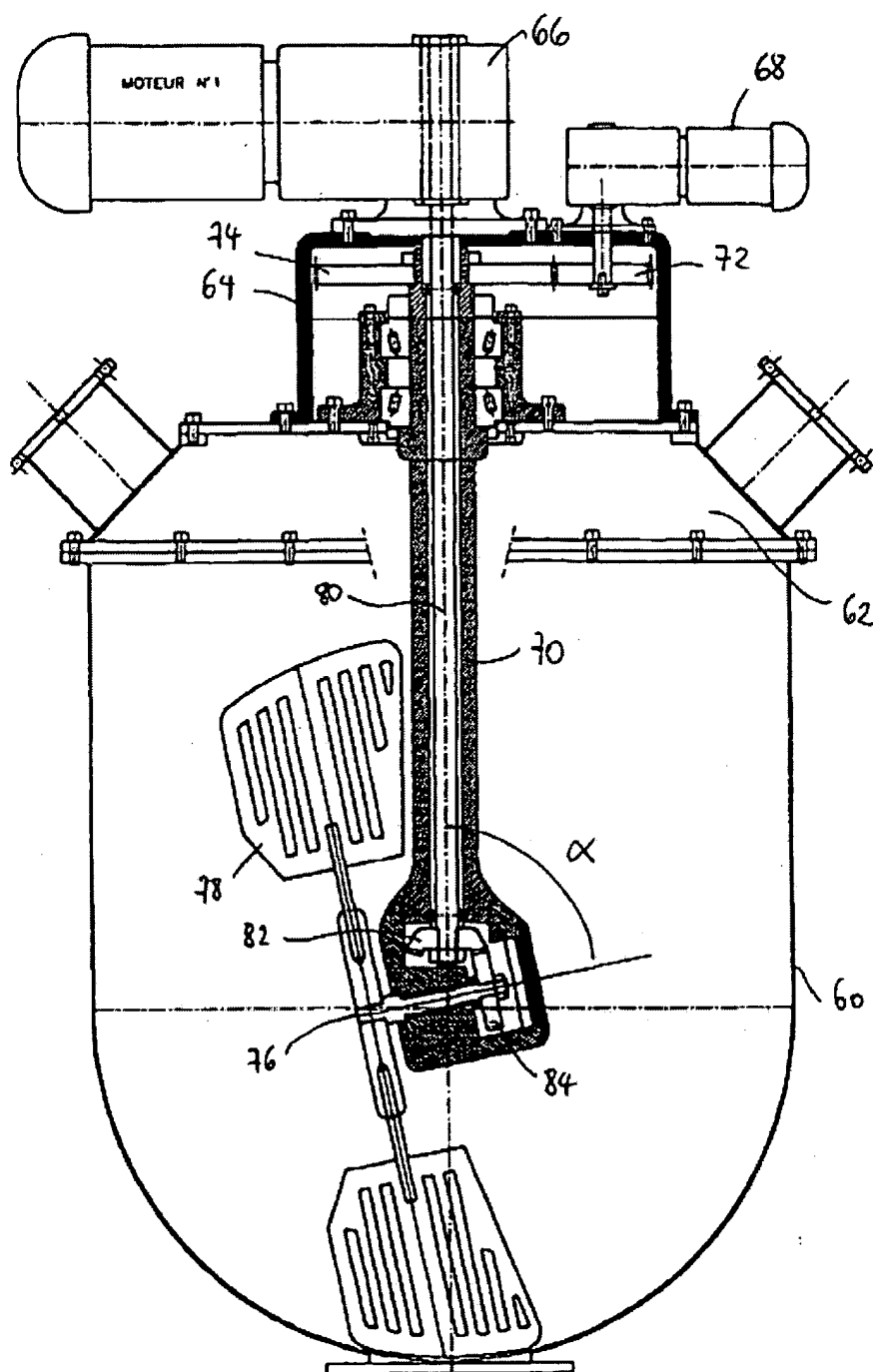


FIG. 6

13. Claims 1-12 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Pauty (US 4,065,811).

The patent to Pauty discloses a mixer throughout the Figures and various embodiments comprising a casing 37-537 substantially having symmetry of revolution about a first axis, mixing members 43-643 driven in rotation relative to the casing and about a second axis that is inclined relative to the first axis, the casing and the mixing members being driven in rotation about the first axis at a determined speed; wherein the casing 37-537 comprises a cap driven in rotation about the second axis and supporting the mixing members; the drive units and transmission arrangement shown best in Figs. 18 and 22; wherein the second axis is inclined relative to the first axis within the recited angular range; the mixing members of Fig. 6 have an extreme edge in the shape of an arc of a circle; the mixing members are open-worked vanes (Figs. 2, 6, 9, 12, 26) or solid vanes (Fig. 25); the mixing members capable of cutting material being processed; and a container 1 the base of which has a symmetry of revolution and the generatrix of which is the extreme edge of a mixing member as seen in the Figures.

14. Claims 1, 2, 5, 6, 7, 10, 12, 13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by SU 1472111 A1.

SU 1472111 A1 discloses a mixer comprising a casing 15 substantially having symmetry of revolution about a first axis 8, mixing members 16 driven in rotation relative to the casing and about a second axis 14 that is inclined relative to the first axis, the casing and the mixing members being driven in rotation about the first axis at a

Art Unit: 1723

determined speed.; the casing 15 comprises a cap driven in rotation about the second axis and supporting the mixing members 16; wherein the second axis is inclined relative to the first axis within the recited angular range; the mixing members 16 are open-worked vanes; the mixing members 16 capable of cutting material being processed; a lump breaker 10 which is mobile relative to the first axis, the lump breaker and the mixing members being on either side of a plane containing the first axis 8; the lump breaker 10 is connected to transmission tube 8.

15. Claims 1, 2, 7, 11, 12, 13, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Rathke (US 3,799,917).

The patent to Rathke discloses a mixer comprising a casing 13 substantially having symmetry of revolution about a first axis (along 12), mixing members (flights 19) driven in rotation relative to the casing and about a second axis 18 that is inclined relative to the first axis, the casing and the mixing members being driven in rotation about the first axis at a determined speed; the casing 13 comprises a cap driven in rotation about the second axis and supporting the mixing members 19; the mixing members 19 are solid vanes/flights; the mixing members 19 capable of cutting material being processed; a lump breaker 15, 16 which is mobile relative to the first axis, the lump breaker and the mixing members being on either side of a plane containing the first axis; the lump breaker is connected to transmission tube 12; the lump breaker is mobile parallel to the first axis.

Allowable Subject Matter

16. Claims 17-18 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112 and to include all of the limitations of the base claim and any intervening claims.

17. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. The following is an Examiner's statement of reasons for the indication of allowable subject matter:

The prior art of record does not teach or fairly suggest the lump breaker arranged along the second axis, a telescopic arm connecting the lump breaker to the transmission tube, or the lump breaker is driven in rotation by a motor in the telescopic arm.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited art shows multi-axis mixers. Van Der Wel, Krause et al., and Merle et al. show mixers with vanes capable of being adjusted relative to their support.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley whose telephone number is (571)

Art Unit: 1723

272-1139. The examiner can normally be reached on Mon-Fri. All official facsimiles should be transmitted to the centralized fax receiving number 571-273-8300.

21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Charles", followed by a stylized flourish or wave.

Charles E. Cooley
Primary Examiner
Art Unit 1723

1 December 2005